



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 28, 1995

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR95-151

Dear Mr. Dempsey:

The City of Garland (the "city") has asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. The request was assigned ID# 31578.

The city received a request from two individuals for the narrative sections of certain offense reports. Your letter to the requestors indicates that the city has released "the front pages of the referenced arrest reports and the front page of a relevant Offense Report." You assert that the requested narrative sections are excepted from disclosure pursuant to section 552.108 of the Government Code. You have submitted the records at issue to this office for review.

Section 552.108 excepts from disclosure:

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . ; [and]
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement.

When applying section 552.108, this office distinguishes between cases that are still under active investigation and those that are closed. Open Records Decision No. 611 (1992) at 2. In cases that are still under active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See Houston Chronicle Publishing Co. v. City of Houston*, 531

S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist. 1975), *writ ref'd n.r.e. per curiam*, 586 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Section 552.108 is applicable while the case is being investigated until it is closed through prosecution. Attorney General Opinion MW-446 (1982) at 2.

You have supplied information showing that the case is still under active investigation. The city may therefore withhold from disclosure the requested information except for the first page offense report information. However, some of the information you submitted to this office appears to be first page offense report information. Although first page offense report information is generally found on the first page of an offense report, its location is not determinative. It must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located.<sup>1</sup> See Open Records Decision No. 127 (1976) at 5.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/MAR/rho

Ref.: ID# 31578

Enclosures: Summary of Open Records Decision No. 127  
Submitted documents

cc: Mr. Randall McFeeley  
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P.O. Box 495472  
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<sup>1</sup>Since section 552.108 is applicable, we need not address your section 552.103(a) argument. We note, however, that in the circumstances you have described section 552.103(a) also would not except from disclosure first page offense report information. In Open Records Decision No. 597 (1991), we stated that section 552.103(a) may not be invoked to withhold basic information in an offense report when a suspect has already been arrested and made aware of the basic charges against him.